

## **MINUTES**

**TENNESSEE SOLID WASTE DISPOSAL CONTROL BOARD MEETING  
RUTH NEFF CONFERENCE ROOM  
17<sup>TH</sup> FLOOR, L & C TOWER  
401 CHURCH STREET  
NASHVILLE, TENNESSEE**

**AUGUST 5, 2003**

**Board Members Present:**

Dr. Greg Nail  
Ms. Janet Evans  
Mr. J. P. Newman, Chairman  
Mr. Ken Pointer  
Mr. David Wallace  
Mr. Robert Waddell  
Mr. Glenn Youngblood  
Mr. Sizwe Herring

**Board Members Absent:**

Mr. Joe Mahan  
Mr. Wilton Burnett  
Mr. Bob Whetsel

Chairman Newman called the meeting to order at 9:08 a.m. After noting that a quorum was present, he welcomed the board members and guests.

**I. SOLID WASTE DISPOSAL CONTROL BOARD MATTERS**

**A. Approval of Minutes from the June 3, 2003 Board Meeting**

Chairman Newman asked if the Board members had reviewed the Draft Minutes from the June 3, 2003 Board Meeting. There were no questions or changes by the Board members. A **motion** was made by Mr. Youngblood and **seconded** by Mr. Wallace **to approve the Minutes from the June 3, 2003 Board Meeting as presented. The motion carried unanimously by voice vote.**

**B. General Business/Staff Reports**

Jamie Burroughs, in the Treatment, Storage and Disposal Section of the Division of Solid Waste Management, presented her report for the last three quarters, from October 1, 2002 through June 30, 2003. The report includes the corrective action activities, permitting activities, closure activities, modifications and the fees collected during that period.

There were no questions or comments from the Board Members.

**II. REGULATORY MATTERS**

**A. Consideration for the Adoption of Solid Waste Regulation Revision "q" Requirements for land application facilities".**

Mr. Greg Luke with the Solid Waste Program requested the adoption of rule revision "q," requirements for land application facilities, to Chapter 1200-1-7 of the Solid Waste Program Regulations. This new rule with accompanying amendment was introduced to the Board on February 4, 2003, asking for approval to hold a public hearing. The request was granted and a hearing was held on April 17, 2003. There were four

attendees at the hearing, with one verbal comment in addition to three sets of comments received during the comment period.

The first comment expressed concern that the cost to operators with multiple application sites would be quite substantial. Since the Division believes the use of multiple applications sites is a good management method, the regulatory language was amended to reduce the initial application fees and annual maintenance fees.

The next comment suggested the scope/applicability section be clarified to specify the materials that would be subject to the Rule. The Division disagrees and believes the proposed language is clearly defined.

The third Comment proposed that the requirement at .13(2)(b)(1) Design Standards to include a synthetic line was too restrictive and not justified. After reviewing the requirement the Division agreed and modified the language by removing the work "synthetic."

Comment four questioned the extent of the vegetative zone. The Division is making a guidance document available "Land application of Solid Wastes: Guidance Document" that describes vegetative buffer provisions for various site conditions.

Comment five suggested the Division provide regulatory language to define acceptable soil amendment and agronomic impacts. As in comment four, the Division addressed these issues in the land application document.

Comment six proposed a hypothetical question concerning the financial assurance needs for a facility exceeding 100,000 gallons of liquid waste and how it would be determined. A financial instrument covering the

removal and disposal of stored waste and decommissioning of the storage tank by a third party would have to be submitted to the Division for review and approval

Mr. Ken Pointer made the suggestion that in the comment regarding the vegetative zone, the rule reads wet weather conveyances, but the way it was mentioned in the comments, the Division said vegetative cover around streams, wet weather conveyances and karst features and he thinks the Rule would better read if streams and karst features were added. After discussion, with clarification from Jeff Norman, it was agreed to change the language to read, "There must be a vegetative buffer zone between the land application facility and any wet weather conveyance stream or karst feature." During a brief break, the correction was made and presented to the board for a motion.

A **motion** was made by Mr. Pointer and **seconded** by Mr. Herring **to adopt Solid Waste Regulation Revision "q" Requirements for Land Application Facilities**. The **motion carried unanimously by a roll call vote**. The vote was as follows:

<b>Burnett</b>	<b>Absent</b>	<b>Evans</b>	<b>Yes</b>
<b>Herring</b>	<b>Yes</b>	<b>Mahan</b>	<b>Absent</b>
<b>Nail</b>	<b>Yes</b>	<b>Newman</b>	<b>Yes</b>
<b>Pointer</b>	<b>Yes</b>	<b>Waddell</b>	<b>Yes</b>
<b>Wallace</b>	<b>Yes</b>	<b>Whetsel</b>	<b>Absent</b>
<b>Youngblood</b>	<b>Yes</b>		

**B. Draft Revision "x" Hazardous Waste Rules - Briefing**

Jerry Ingram, Manager of the Program Development Section, presented a package of handouts to each board member. The first handout deals with proposed legislative changes. This is the Hazardous Waste Reduction Act. A proposal was to make certain changes to that Act, which was presented to the Board last year. The Administration chose not to bring this up at the

last Legislative Session. Mr. Alan Lieserson, of Joe Sander's staff, has again requested statutes that we may wish to have changed. Several changes have been made to this Hazardous Waste Reduction Act as a proposal modification during the next legislative session. All obsolete language will be deleted from this Act. The Act will not be done away with, but proposals for hazardous waste reduction will not be required to be reported to the Central Office. Each facility must prepare and maintain a plan in dealing with hazardous waste reduction. This plan must be available to our inspectors when any reviews are made at the facility. Janet Evans suggested this Act be inserted in the Regs so that facilities would be aware of its requirements.

The second document is the key regarding proposed revision "x" that will be filed with the Secretary of State's Office to initiate another rule making procedure. This will succeed revision "w" which is not effective yet, but was adopted at the February board meeting. It is currently in the Attorney General's office under review. If they are released by the end of the month, it should be effective around the middle of November.

Only two Federal Registers, dated July 24, 2002 and October 7, 2002, provide changes from the federal level that will be incorporated into this revision. There are two other Federal Registers listed with no additional changes that need to be done to our regulations, as we have already made those corrections or there are no changes.

There are several housekeeping changes:

The first one, Rule Chapter 1200-1-10 Administrative Procedures, is being deleted. It is obsolete, and could be in conflict with the Uniform Administrative Procedures Act. Joe Sanders, head of our Office of General Counsel, brought this proposal to Jerry. The Rules deal with

administrative procedures concerning contested cases, Board procedures, etc.

The second change, Rule 1200-1-11-.01(3) petitions for exclusions, is being modified to remove sub paragraph (b) Petitions for Equivalent Testing or Analytical Methods and sub paragraph (c), Petitions to Exclude a Waste Produced at a Particular Facility as Nonhazardous, referred to as delisting. The authority for implementing these two paragraphs remains with the US EPA. The State of Tennessee does not have authorization from EPA for delisting. Currently, in order for a waste to be delisted in Tennessee, it must be delisted by EPA as well as Tennessee.

The third item makes clarifications and item four corrects typographical errors.

Item five concerns transfer facilities. Transfer facilities have not been regulated by the State or EPA, but there is a definite need to do so, as there have been spills at these facilities. These facilities are not allowed to store waste beyond a 10-day period without obtaining a storage permit. A proposal is being made to bring transfer facilities into the regulated universe. Requirements applicable to transfer facilities are being added to Rule .04 and Rule .08, which include the requirement of an installation identification number, maintaining a log of all shipments of hazardous waste, compliance with personnel training and security measures, and other information as required by the Commissioner.

Item six will require Transporter Permit Renewal Forms to be submitted to the Department by December 31, instead of March 1 in Rule .04.

Item seven requires a Transporter Renewal Permit to be issued by the Waste Activity Audit Group by January 31.

Item eight sets forth that Transporter Permits remain in effect until January 31, to keep all permits on an annual calendar basis similar to the annual reports schedule.

Item nine requires an original permit, not a copy, as has been previously used, be available in each hazardous waste vehicle and be provided upon request to a generator, shipper or transfer facility operator.

Item 10, Rule 1200-1-11-.08(1)(6)8, makes fees contained in this rule applicable to transfer facilities as appropriate.

Item 11, Rule 1200-1-11.08(1)(e) is being amended to state that other methods of payment other than by check or money order may be used if approved by the Commissioner.

Item 12, Rule 1200-1-11-.08(4)(a) requires transporters to submit an Annual Permit Maintenance and Renewal Fee by December 31.

Item 13, Rule 1200-1-11-.08(4)(b) is being amended to clarify that it is the largest constructed design capacity amount that should be used in calculating the category fees and half-fees are being eliminated by deleting existing subparts (iii), (iv) and (vi).

Item 14, Rule 1200 1-14-.01(2)(a) the definition of "commercial facility" is being modified to be equivalent to the statutory definition .

The Rule-Making Hearing for presentation of these amendments is set for October 21<sup>st</sup>, 2003, at 1:00 pm. Comments will be received until 4:30 pm on November 4, 2003. The final package will be presented at the December Board Meeting for adoption consideration.

The State is no longer reviewing applications for delisting of waste as hazardous. This process will be handled by EPA. However, the State will have a liaison that will be working in close conjunction with the EPA and will be able to provide comments to that agency before final delisting decisions are made.

Jerry introduced Ed King, who presented the new fee sheet.

### **III. AGREED/CONSENT ORDERS**

Mr. Max Fleischer presented two agreed orders.

#### **A. Pollution Control Industries of Tennessee (PCI) SWM Case 03-0085/Shelby County**

During the fall of 2002, the Division conducted inspections at PCI and observed violations of the rules governing hazardous waste management. The most significant violations that were observed were the failure to store hazardous waste roll-off containers in a permitted storage area and the failure to properly dispose of a prohibited waste (resulting from the release of solid waste from a roll-off container).

On March 4, 2003, the Division sent an Order and Assessment addressing these violations. PCI filed its petition for review of the Order on March 24, 2003. PCI demonstrated to the satisfaction of the Division that the PCI was not in violation of certain regulations originally cited in NOV's and the Order. PCI submitted to the Division additional information



regarding other violations referenced in the Order. Upon considering the additional information, the Division concluded that the civil penalties would have been lower had the Division been aware of this information at the time of the issuance of the original Order.

This Agreed Order provides for the payment of a civil penalty of \$15,600.00. The original Order in this case provided for a civil penalty of \$24,000.00.

After review, a motion was made by Mr. Youngblood and seconded by Mr. Waddell. The motion carried by voice vote.

**B. Auto Body America, SWM Case 03-0103/Davidson County**

On November 26, 2002, the Division of Solid Waste Management inspected the automobile repair business operated by Autobody America, Inc. to determine whether the Respondent was in compliance with the law and rules pertaining to hazardous waste. During the inspection, the Division discovered the Respondent has been disposing of hazardous waste, to wit, hazardous steel bottoms, without a permit.

The Order and Assessment in this case assessed civil penalties of \$11,000.00. The attached Agreed Order, which would settle this matter without the necessity of a trial, provides for the payment of an \$8,300.00 civil penalty, approximately a 25% reduction of the \$11,000.00 civil penalty originally assessed by the Respondent.

After review, a motion was made by Mr. Wallace and seconded by Mr. Pointer. The motion carried by voice vote.

#### **IV. OTHER BUSINESS**

After Mr. Apple commented on auditing fees, a motion to adjourn was made by Ms. Evans and seconded by Mr. Wallace. The motion carried by voice vote and the meeting was adjourned at 11:25.

**SUBMITTED BY:**

\_\_\_\_\_  
**Mike Apple, Technical Secretary**

\_\_\_\_\_  
**Date**

**APPROVED BY:**

\_\_\_\_\_  
**J.P. Newman, Chairman**  
**Solid Waste Disposal Control Board**

\_\_\_\_\_  
**Date**